NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)

PREAMBLE

1.	**Sections Affected**	**Rulemaking Action**
	R9-22-212	Amend
	R9-22-213	Amend
	R9-22-216	Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: ARS § 36-2903.01 (F)

Implementing statute: ARS § 36-2907

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Docket Opening: 12 A.A.R. 1422, April 28, 2006

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Mariaelena Ugarte

Address: AHCCCS
Office of Administrative and Legal Services
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034

Telephone: (602) 417-4693

Fax: (602) 253-9115

E-mail: AHCCCSRules@azahcccs.gov

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The Administration must revise rules to comply with the Consent Decree mandating the coverage of incontinence briefs as a preventive measure to certain EPSDT AHCCCS members who are incontinent as a result of their disabilities.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

No study was reviewed or considered for this rulemaking.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

This rulemaking is anticipated to have a minimal to moderate economic impact on the involved parties. Affected members will benefit from the added coverage of incontinence briefs. Additional costs will be incurred by the Administration and the contractors for coverage of these supplies.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name:	Mariaelena Ugarte
Address:	AHCCCS
	Office of Administrative and Legal Services
	701 E. Jefferson, Mail Drop 6200
	Phoenix, AZ 85034
Telephone:	(602) 417-4693
Fax:	(602) 253-9115
E-mail:	AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS website www.azahcccs.gov the week of April 2, 2007. Please send written comments to the above address by 5:00 p.m., May 21, 2007. E-mail comments will be accepted.

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date:	May 21, 2007
Time:	10:00 a.m.
Location:	AHCCCS
	701 East Jefferson
	Phoenix, AZ 85034
Nature:	Public Hearing

Date:	May 21, 2007
Time:	10:00 a.m.
Location:	ALTCS: Arizona Long-Term Care System
	110 South Church, Suite 1360
	Tucson, AZ 85701
Nature:	Public Hearing

Date:	May 21, 2007
Time:	10:00 a.m.
Location:	ALTCS: Arizona Long-Term Care System
	3480 East Route 66
	Flagstaff, AZ 86004
Nature:	Public Hearing

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ADMINISTRATION

ARTICLE 2. SCOPE OF SERVICES

Section

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

ARTICLE 2. SCOPE OF SERVICES

R9-22-212. ~~Medical Supplies,~~ Durable Medical Equipment, ~~and~~ Orthotic and Prosthetic Devices, and Medical Supplies

A. ~~Medical supplies, durable~~ Durable medical equipment, ~~and~~ orthotic and prosthetic devices, and medical supplies, including incontinence briefs as specified in subsection (E), are covered services if provided in compliance with requirements of this Chapter, and

1. Prescribed by the primary care provider, attending physician, practitioner, or dentist;
2. Prescribed by a specialist, upon referral from the primary care provider; attending physician, practitioner or dentist; and
3. Authorized as required by the Administration, contractor, or contractor's designee.

B. Covered medical supplies are consumable items that are disposable and are essential for the member's health.

C. Covered DME is any item, appliance, or piece of equipment that is:

1. Designed for a medical purpose,
2. To withstand wear,
3. Generally reusable by others, and
4. Purchased or rented for a member.

D. Covered prosthetic and orthotic devices are only those items that are essential for the habilitation or rehabilitation of a member.

E. The following limitations on coverage apply:

1. The DME is furnished on a rental or purchase basis, whichever is less expensive. The total expense of renting the DME does not exceed the cost of the DME if purchased.
2. Reasonable repair or adjustment of purchased DME is covered if necessary to make the DME serviceable and if the cost of repair is less than the cost of renting or purchasing another unit.
3. A change in, or addition to, an original order for DME is covered if approved by the member's primary care provider or authorized prescriber, or prior authorized by the Administration or contractor, and the change or addition is indicated clearly on the order and initialed by the vendor. No change or addition to the original order for DME may be made

after a claim for services is submitted to the member's contractor, or the Administration, without prior written notification of the change or addition.

4. Reimbursement for rental fees shall terminate:
   a. No later than the end of the month in which the primary care provider or authorized prescriber certifies that the member no longer needs the DME;
   b. If the member is no longer eligible for AHCCCS services; or
   c. If the member is no longer enrolled with a contractor, with the exception of transitions of care as specified by the Administration.
5. ~~Personal~~ Except for incontinence briefs as provided in (6), personal incidentals including items for personal cleanliness, body hygiene, and grooming are not covered unless needed to treat a medical condition. ~~and:~~
   ~~a. Prescribed by:~~
      ~~i. The member's primary care provider, attending physician, practitioner;~~
      ~~ii. A specialist upon referral from the primary care provider, attending physician, or practitioner; and~~
   ~~b. Authorized as required by the Administration, or contractor or its designee.~~
6. Incontinence briefs, including pull-ups are covered in order to prevent skin breakdown and to enable participation in social, community, therapeutic and educational activities under the following circumstances:
   a. The member is over 3 years and under 21 years old;
   b. The member is incontinent due to a documented disability that causes incontinence of bowel and/or bladder;
   c. The PCP or attending physician has issued a prescription ordering the incontinence briefs;
   d. Incontinence briefs do not exceed 240 briefs per month unless the prescribing physician presents evidence of medical necessity for more than 240 briefs per month for a member diagnosed with chronic diarrhea or spastic bladder.
   e. The member obtains incontinence briefs from providers in the Contractor's network.
   f. Prior authorization has been obtained as required by the Administration, contractor, or contractor's designee. Contractors may require a new prior authorization to be issued more frequently than every twelve months. Prior authorization for a renewal of an existing prescription may be provided by the physician through telephone contact with the member rather than an in-person physician visit. Prior authorization will be permitted to ascertain that:
      i. The member is over age 3 and under age 21;
      ii. The member has a disability that causes incontinence of bladder and bowel;

iii. A physician has prescribed incontinence briefs as medically necessary. A physician prescription supporting medical necessity may be required for specialty briefs or for briefs different from the standard briefs supplied by the contractor; and

iv. The prescription is for 240 briefs or fewer per month, unless evidence of medical necessity for over 240 briefs is provided.

~~6~~7. First aid supplies are not covered unless they are provided in accordance with a prescription.

~~7~~8. Hearing aids are not covered for a member who is age 21 or older.

~~8~~9. Prescriptive lenses are not covered for a member who is age 21 or older unless they are the sole visual prosthetic device used by the member after a cataract extraction.

F. Liability and ownership.

1. Purchased DME provided to a member that is no longer needed may be disposed of in accordance with each contractor's policy.
2. The Administration shall retain title to purchased DME supplied to a member who becomes ineligible or no longer requires its use.
3. If customized DME is purchased by the Administration or contractor for a member, the equipment shall remain with the person during times of transition, or upon loss of eligibility.
   a. For purposes of this Section, customized DME refers to equipment that is altered or built to specifications unique to a member's medical needs and that, most likely, cannot be used or reused to meet the needs of another individual.
   b. A member shall return customized DME obtained fraudulently to the Administration or the contractor.

R9-22-213. Early and Periodic Screening, Diagnosis, and Treatment Services (E.P.S.D.T.)

A. The following E.P.S.D.T. services are covered for a member less than 21 years of age:

1. Screening services including:
   a. Comprehensive health and developmental history;
   b. Comprehensive unclothed physical examination;
   c. Appropriate immunizations according to age and health history;
   d. Laboratory tests; and
   e. Health education, including anticipatory guidance;
2. Vision services including:
   a. Diagnosis and treatment for defects in vision;

b. Eye examinations for the provision of prescriptive lenses; and

c. Provision of prescriptive lenses;

3. Hearing services including:

a. Diagnosis and treatment for defects in hearing;

b. Testing to determine hearing impairment; and

c. Provision of hearing aids;

4. Dental services including:

a. Emergency dental services as specified in R9-22-207;

b. Preventive services including screening, diagnosis, and treatment of dental disease; and

c. Therapeutic dental services including fillings, crowns, dentures, and other prosthetic devices;

5. Orthognathic surgery;

6. Nutritional assessment and nutritional therapy as specified in contract to provide complete daily dietary requirements or supplement a member's daily nutritional and caloric intake;

7. Behavioral health services under 9 A.A.C. 22, Article 12;

8. Hospice services as follows:

a. Hospice services are covered only for a member who is in the final stages of a terminal illness and has a prognosis of death within six months;

b. Services available to a member receiving hospice care are limited to those allowable under 42 CFR 418.202, December 20, 1994, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments; and

c. Hospice services do not include:

i. Medical services provided that are not related to the terminal illness; or

ii. Home delivered meals.

d. Hospice services that are provided and covered through Medicare are not covered by AHCCCS.

9. Incontinence briefs as specified under R9-22-212.

~~9~~10. Other necessary health care, diagnostic services, treatment, and measures required by 42 U.S.C. 1396d(r)(5).

B. Providers of E.P.S.D.T. services shall meet the following standards:

1. Provide services by or under the direction of the member's primary care provider, attending physician, practitioner, or dentist.

2. Perform tests and examinations under 42 CFR 441 Subpart B, January 29, 1985, which is incorporated by reference and on file with the Office of the Secretary of State and the Administration. This incorporation by reference contains no future editions or amendments.
3. Refer a member as necessary for dental diagnosis and treatment and necessary specialty care.
4. Refer a member as necessary for behavioral health evaluation and treatment services.

C. Contractors shall meet other E.P.S.D.T. requirements as specified in contract.

D. A primary care provider, attending physician, or practitioner shall refer a member with special health care needs under R9-7-301 to CRS.

R9-22-216. NF, Alternative HCBS Setting, or HCBS

A. Services provided in a NF, including room and board, alternative HCBS setting as defined in R9-28-101, or HCBS as defined in R9-28-101 are covered for a maximum of 90 days per contract year if the member's medical condition would otherwise require hospitalization.

B. Except as otherwise provided in 9 A.A.C. 28, the following services are not itemized for separate billing if provided in a NF, alternative HCBS setting, or HCBS:
1. Nursing services including:
a. Administering medication,
b. Tube feedings,
c. Personal care service (assistance with bathing and grooming),
d. Routine testing of vital signs, and
e. Maintenance of catheter;
2. Basic patient care equipment and sickroom supplies including:
a. First aid supplies such as bandages, tape, ointments, peroxide, alcohol, and over-the-counter remedies;
b. Bathing and grooming supplies;
c. Identification device;
d. Skin lotion;
e. Medication cup;
f. Alcohol wipes, cotton balls, and cotton rolls;
g. Rubber gloves (non-sterile);
h. Laxatives;
i. Bed and accessories;

j. Thermometer;

k. Ice bags;

l. Rubber sheeting;

m. Passive restraints;

n. Glycerin swabs;

o. Facial tissue;

p. Enemas;

q. Heating pad;

r. ~~Diapers~~ Incontinence briefs; and

s. Alcoholic beverages;

3. Dietary services including preparation and administration of special diets, and adaptive tools for eating;

4. Any service that is included in a NF's room and board charge or a service that is required of the NF to meet a federal, state licensure standard, or county certification requirement;

5. Physician visits made solely for the purpose of meeting state licensure standards or county certification requirements;

6. Physical therapy prescribed only as a maintenance regimen; and

7. Assistive devices or non-customized durable medical equipment.

C. A provider shall obtain prior authorization from the Administration for a NF admission for a FFS member.